

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement for date of service 8-27-01.
b. The request was received on 8-6-02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. TWCC 60
 - b. HCFA
 - c. EOB
 - d. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
No Carrier response was noted in the dispute packet.
3. The Commission requested two copies of additional documentation via a Fee Letter (MR 116) that was mailed to the Requestor on 8-23-02. No additional documentation was noted in the dispute packet from Provider. Therefore, the Commission could not forward any additional documentation to the Respondent per Rule 133.307 (g) (4). The "No Response Submitted" sheet is reflected as Exhibit II of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: Position statement taken from Table of Disputed Services:
"Additional pmt denied per fee based on medicare fair and reasonable. Medicare fees are not based on fair and reasonable."
2. Respondent: No carrier response noted in dispute packet."

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible for review is 8-27-01.
2. The carrier denied the billed services as reflected on the EOBs as, "M – Payment recommendation based on fair and reasonable which (Audit Company) has defined as the Texas 2002 Medicare DME Fee Schedule plus 20%; S – Previously recommended

amount has been amended as indicated; O – Previously recommended amount has not been changed”.

3. The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT or Revenue CODE	BILLED	PAID	EOB	MARS	REFERENCE	RATIONALE:
8-27-01	E0748	\$4,900.00	\$4,023.10	M,O,S	DOP	Rule 133.307 (g) (3) (D); Section 413.011 (d); HCPCS descriptor	<p>The carrier has denied the disputed equipment as, “M”. The denial codes of “O” and “S” uphold amount reimbursed.</p> <p>Section 413.011 states, “Guidelines for medical services fees must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual’s behalf.”</p> <p>The provider failed to support its position that the fees charged were fair and reasonable as required by Rule 133.307 (g) (3) (D).</p> <p>The law or rules are not specific in the amount of evidence that has to be submitted for a determination of fair and reasonable. Rule 133.307 (g) (3) (D) states, “if the dispute involves health care for which the commission has not established a maximum allowable reimbursement, documentation that discusses, demonstrates, and justifies that the amount being sought is a fair and reasonable rate of reimbursement in accordance with § 133.1 of this title...” CPT Code E0748 is defined as “Osteogenesis stimulator (non invasive)”. As the requestor, the health care provider has the burden to prove that the fees charged represent fair and reasonable. The Provider has failed to submit documentation to support that the fees charged represent fair and reasonable and thereby failed to meet the criteria of Rule 133.307 (g) (3) (D).</p> <p>Therefore, no additional reimbursement is recommended</p>
Totals		\$4,900.00	\$4,023.00				The Requestor is not entitled to additional reimbursement.

The above Findings and Decision are hereby issued this 15th day of April 2003.

Lesia Lenart
Medical Dispute Resolution Officer
Medical Review Division

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